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a lower bearing support arranged at a lower end of the support tube, the lower bearing support comprising at least one stop surface;

a cylindrical element rotatably mounted to the support tube via the upper and lower bearing supports;

the cylindrical element having one end that is adapted to be connected to a wheel fork and another end that is adapted to be connected to a handlebar;

a latch element movably disposed within the support tube;

a slide coupled to the latch element;

the latch element being movable from outside the support tube;

a linkage element that is rotatable with respect to the support tube; and

the linkage element cooperating with the lower bearing support to limit a rotational movement of the linkage element with respect to the support tube,

wherein the latch element and the linkage element are releasably engagable with each other to prevent rotational movement of the cylindrical element.--

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#### REMARKS

##### *Summary of the Amendment*

Upon entry of the above amendment, claims 26, 27, 29, 35, 36, 47, 51, 55 and 57 will have been amended and claim 59 will have been added. Accordingly, claims 1-32 and

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34-59 will be pending with claims 1, 26, 27, 29, 31, 36, 47, 51, 57 and 59 being independent.

*Summary of the Official Action*

In the instant Office Action, the Examiner has indicated that claims 1-30 and 34-57 are allowed and that claims 31, 32 and 58 contain allowable subject matter and would be allowable if amended to overcome the formal rejection. Finally, the Examiner rejected claims 31, 32 and 58 as indefinite. By the present amendment and remarks, Applicant submits that the rejection is improper and respectfully request reconsideration of the outstanding Office Action and allowance of the present application.

*Present Amendment is proper for entry*

Applicant submits that the instant amendment is proper for entry after final rejection. In particular, Applicants note that no question of new matter nor are any new issues raised in entering the instant amendment of the claims, and that no new search would be required. Moreover, Applicants submit that the instant amendment places the application in condition for allowance, or at least in better form for appeal.

Accordingly, Applicants request that the Examiner enter the instant amendment, consider the merits of the same, and indicate the allowability of the present application and each of the pending claims.

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*Support for amendments to the claims*

Support for the amendment to the above noted claims can be found, among other places, in Figs. 8-18 which clearly shown that the linkage element rotates with the fork tube 3. Applicants have amended certain claims to recite that the linkage element 6' is "rotatable with" the fork tube, in place of a recitation indicating that the linkage element is "connected to" the fork tube. Applicant notes that it is clearly apparent from a reading of the specification and from Figs. 8-11, i.e., that the shaft 3 rotates with linkage element 6'. This change is believed to more clearly describe what is in fact shown in Applicant's figures.

All other changes are believed to be fully supported by the instant specification, original claims and figures.

*Interview of February 5, 2002*

Applicant appreciates the courtesy extended by the Examiner in the interview of February 5, 2002. In that interview, Applicant's representative discussed the outstanding indefiniteness rejection regarding claims 31, 32 and 58 reciting "rod like member." Applicant's representative argued that page 9, lines 12-14 and the drawing clearly supports and/or defines this feature. The Examiner agreed and indicated that he would withdraw the rejection.

Applicant's representative also clarified to the Examiner that Applicant's use of the

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term "fork tube" in the claims is not limited to "tubes" per se, and that the claims should be construed to encompass any shaft-like element which performs the function of connecting the handlebar to the wheel fork and which can rotate with respect to the support tube. The Examiner indicated that the specific construction of the fork tube was not material to patentability, i.e., whether the "fork tube" is tubular, solid or otherwise was not material to whether the claims define the invention over the applied art of record. In particular, the Examiner pointed to the "Reasons for Allowance" of the January 2, 2002 Official action which makes clear the various features which were relied upon for patentability, over the applied art of record, e.g., a latch element and a slide disposed within the support tube in claims 26, 28, 30, 34, 35 and 37-46, a latch element and a movable linkage element disposed within the support tube in claims 1-25 and 47-50, a releasably engagable latch element, a lower bearing support, and a linkage element limiting movement of the fork tube in claims 51-56, and a slide which is adapted to move the latch element from outside the support tube in claims 57 and 58.

Applicant exhibited the steering head portion of a Kettler Happy Trike model which used a solid rod fork tube, and pointed out that this particular steering head was covered by at least claims 26-32, 34-46 and 51-58 because the term "fork tube" was not limited to elements which are tubular. The Examiner again pointed to the "Reason for Allowance" and indicated that the term fork tube was not listed as a feature that was critical

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to patentability.

Finally, Applicant's representative proposed new independent claim 59 which is believed to contain many, if not most, of the features indicated to be allowable subject matter and requested that the Examiner fully consider the merits of this claim in the next action. It was pointed out to the Examiner that this new claim recited the term "cylindrical element." A cylindrical element has an external cylindrical shape and is rotatable, as illustrated in Applicant's Figures. The Examiner agreed to review any proposed new claims. However, the Examiner reserved the right to not enter an amendment which raised new issues and/or required further search or consideration.

Accordingly, in view of the arguments presented in the interview and the amendments made herein, Applicants respectfully request that the Examiner reconsider the outstanding rejections.

***Acknowledgment of Allowable Subject Matter***

Applicant acknowledges and appreciates the Examiner's indication that claims 1-30 and 34-57 are allowed and that claims 31, 32 and 58 contain allowable subject matter and would be allowable if amended to overcome the formal rejection. However, at this time Applicant is not amending claims 31, 32 and 58 because it is believed that these claims are not indefinite, for the reasons indicated herein. Therefore, Applicant respectfully requests

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that all claims 1-32 and 34-58 be indicated to be allowed.

*Rejection Under 35 U.S.C. § 112, Second Paragraph is Moot*

Claims 31, 32 and 58 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.

The Examiner asserted that these claims are indefinite because they recites a rod like member. Applicant respectfully disagrees. Applicant directs the Examiner's attention to page 9, lines 12-14 of the instant specification which specifically describes reference number 5' as a rod like member. See also Fig. 9.

Applicant acknowledges that the Examiner has indicated in the Interview of February 5, 2002 that this rejection would be withdrawn. However, for the record, Applicant is further supporting its position that the rejection is improper for the following reasons.

Applicant reminds the Examiner that the essential determination as to whether the claims satisfy 35 U.S.C. 112, second paragraph, requires a consideration as to whether the claims set forth the invention with a reasonable degree of precision and particularity. The definiteness of claim language is not analyzed in a vacuum, but rather, is considered in light of the prior art teachings and in view of Applicant's disclosure, as it would be interpreted by one having the ordinary level of skill in the pertinent art. *In re Moore*, 439 F.2d 1232, 169 USPQ 236 (CCPA 1971).

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In rejecting a claim under section 112, second paragraph, the Examiner is required to establish that one of ordinary skill in the art, when reading the claims in light of the specification, would not have been able to ascertain with a reasonable degree of precision and particularity the particular area set out and circumscribed by the claims. *Ex parte Wu*, 10 USPQ 2d 2031, 2033 (B.P.A.I. 1989). If the disclosure and claims are sufficient for one skilled in the art to understand, the Examiner "should not reject claims or insist on their own preferences if other modes of expression selected by applicants satisfy the statutory requirements." MPEP 2173.02.

Accordingly, the rejections have been rendered moot and the Examiner is requested to withdraw the indefiniteness rejections.

***Newly Submitted Claim is Allowable***

Applicant submits that newly presented claim 59 is allowable over the art. In particular, Applicant submits that claim 59 is allowable because it recites features which were indicated to define over the applied art of record in the Reasons for Allowance.

Accordingly, Applicant respectfully requests that the Examiner consider the merits of newly submitted claim 59 and indicate that this claim is allowable.

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*Comments on Reasons for Allowance*

In response to the Statement of Reasons for Allowance set forth in the Office Action, Applicant wishes to clarify the record with respect to the basis for the patentability of the indicated claims in the present application. In this regard, while Applicant does not disagree with the Examiner's indication that certain identified features are not disclosed by the references, Applicant submits that the claims in the present applicant recite a combination of features, and that the basis for patentability of these claims is based on the totality of the recited features.

CONCLUSION

In view of the foregoing, the claims are believed to fully comply with section 112, second paragraph.

Further, any amendments to the claims which have been made in this response and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Accordingly, reconsideration of the outstanding Office Action and allowance of the present application and all the claims therein are respectfully requested and now believed to be appropriate.




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Please charge any additional fees necessary for consideration of the papers filed herein and refund excess payments to Deposit Account No. 19-0089.

Should there be any questions or comments, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,  
H. KETTLER

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Attachment: Appendix